

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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FREDRICK DOUGLAS BORDEN,

Case No. 3:21-cv-00521-MMD-CSD

Petitioner,

ORDER

v.

WILLIAM GITTER, *et al.*,

Respondents.

This habeas matter is before the Court on *pro se* Petitioner Fredrick Douglas Borden's failure to comply with the Court's prior Order to Show Cause (ECF No. 6).

In December 2021, he submitted a Petition for Writ of Habeas Corpus (ECF No. 1-1). Borden, however, did not pay the \$5 filing fee or submit an application for leave to proceed *in forma pauperis* ("IFP"). The Court instructed Borden to either pay the \$5 filing fee or submit a complete IFP application with all required documentation. (ECF No. 3.) He timely complied and paid the \$5 filing fee. (ECF No. 5.)

On February 28, 2022, the Court instructed Borden to show cause in writing why this action should not be dismissed based on his failure to exhaust his claims in Nevada state courts. (ECF No. 6.) The Court instructed Borden to file a "Response to Order to Show Cause" in writing within 45 days and warned that his failure to timely and fully comply with the order would result in a dismissal of this action without prejudice and without further advance notice. (*Id.* at 3.) However, Borden did not comply with the order by filing a response to the order to show cause, and the 45-day deadline expired.

To date, Borden has not filed a response to the order to show cause, or taken any action to prosecute this case.

It is therefore ordered that Petitioner Fredrick Douglas Borden's Petition for Writ of Habeas Corpus (ECF No. 1-1) is dismissed without prejudice based on his failure to

1 comply with the Court's order.

2 It is further ordered that a certificate of appealability is denied as jurists of reason  
3 would not find the Court's dismissal of the petition to be debatable or wrong.

4 It is further ordered that under Rule 4 of the Rules Governing Section 2254 Cases,  
5 the Clerk of Court is directed to add Nevada Attorney General Aaron D. Ford as counsel  
6 for Respondents and informally serve the Nevada Attorney General by directing a notice  
7 of electronic filing of this order to his office. No response is required from Respondents  
8 other than to respond to any orders of a reviewing court.

9 The Clerk of Court is further directed to enter final judgment accordingly and close  
10 this case.

11 DATED THIS 27<sup>th</sup> Day of April 2022.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written above a horizontal line.

13 MIRANDA M. DU  
14 CHIEF UNITED STATES DISTRICT JUDGE